

## **FINAL STATEMENT OF REASONS:**

The California Department of Corrections and Rehabilitation (CDCR) is proposing to amend Sections of the California Code of Regulations (CCR), Title 15, Division 3, concerning the inmate disciplinary process.

These regulations are necessary based on the need to provide clarity for staff, inmates and the public regarding inmate disciplinary hearings. New language is being added to Section 3323 to include "Assault on a Non-Prisoner" as a Division D-Offense. This language was inadvertently left out of Section 3323, Disciplinary Credit Forfeiture Schedule during the 2007 rule making file# 2-07-0705-01 and is necessary in order to provide a specific division for officials to properly classify Rules Violation Reports (RVR) for assaults on non-prisoners. Additionally, these regulations clarify language which has been found to reflect incorrect references which creates confusion to field staff. These changes also further the safety of all persons and the legitimate penological interest of the institutions.

**Subsections 3090(a) through 3090(c) remain unchanged.**

**Subsection 3090(d) is amended** for clarity and consistency purposes. The reference to the Director was deleted and new reference to the Secretary was added in order to be consistent with the Title change effective in 2005 when the CDCR underwent reorganization. Training Incentive was deleted as it is no longer applicable based on the legislative language change in Penal Code (PC) Section 2933 and for consistency with existing language in section 3044. Subsections 3315(f)(5)(K) and 3315(f)(5)(M) were added for clarity and consistency as existing language in these sections allows canteen privileges to be restricted as a result of a formal disciplinary action.

**Subsection 3090(e) remains unchanged.**

**Subsections 3176.4(a) through 3176.4(b) remain unchanged.**

**Subsection 3176.4(c) is amended** to reflect the correct reference of subsections 3323(c)(6) and 3323(d)(7) in which the official conducting a disciplinary hearing, shall suspend and restrict an inmate's visiting privileges pursuant to subsections 3315(f)(5)(H) and 3315(f)(5)(I) upon a finding of guilt of a drug related offense.

**Subsections 3176.4(d) through 3176.4(g) remain unchanged.**

**Subsections 3315(a) through 3315(a)(3)(A) remain unchanged.**

**Subsection 3315(a)(3)(B) is amended** to establish that theft, embezzlement, destruction, or damage to another's personal property, state funds, or state property is a serious rule violation. The phrase "state funds" is added and the phrase "amounting to more than \$50" was deleted to be consistent with existing language in subsections 3323(d)(6) and 3323(g)(1) which were amended in the 2008 rulemaking file # Z-07-0705-01 in order to come into compliance with PC Section 487 which specifies a dollar value of exceeding \$400. Subsection 3315(a)(3)(B) was inadvertently excluded from amendment in the 2008 rulemaking file and continued to read a dollar amount of less than \$50 which created confusion when determining if a violation of this section was either a Division "B" or a Division "E" in accordance with section 3323, disciplinary credit forfeiture schedule.

**Subsections 3315(a)(3)(C) through 3315(f)(5)(J)3 remain unchanged.**

**Subsection 3315(f)(5)(K) is amended** to correct referenced subsection of 3323(d)(7) to 3323(d)(9) and subsection 3323(g)(8) to 3323(g)(7) due to previous rulemaking files renumbering and relocating various subsections within section 3323. This is necessary to provide guidance for senior hearing officers who conduct inmate disciplinary hearings and to ensure consistent assessment of penalties for a violation of subsection 3323(d)(9) and/or 3323(g)(7).

**Subsections 3315(f)(5)(K)1 through 3315(g) remain unchanged.**

**Subsections 3323(a) through 3323(f)(11) remain unchanged.**

**New subsection 3323(f)(12) is adopted** to establish a specific charge for assault on a non-prisoner as a Division “D” offense. In the 2008 rule making file# 2-07-0705-01, changes were adopted to standardize the inmate disciplinary process. Unfortunately, the specific charge for assault on a non prisoner was inadvertently left out of the 2008 rulemaking file. The inclusion of this charge is necessary to be in compliance with Penal Code Sections 241, 4500 and 4501. This will give staff clear direction in holding inmates accountable for this type of behavior.

**Existing subsections 3323(f)(12) and 3323(f)(13) are renumbered and relocated to new subsections 3323(f)(13) and 3323(f)(14) and text remains unchanged.**

**Subsections 3323(g) through 3323(k)(4) remain unchanged.**

#### **DETERMINATION:**

The Department has determined that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected private persons than the action proposed.

#### **ASSESSMENTS, MANDATES, AND FISCAL IMPACT:**

This action will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, or create or expand businesses in the State of California.

The Department, in proposing amendments to these regulations, has not identified nor has it relied upon any technical, theoretical, or empirical study, report, or similar document.

The Department determines this action imposes no mandates on local agencies or school districts; no fiscal impact on State or local government, or Federal funding to the State, or private persons. It is also determined that this action does not affect small businesses nor have a significant adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states because they are not directly affected by the internal management of State prisons; and no costs or reimbursements to any local agency or school district within the meaning of Government Code, Part 7, Section 17561. The Department has made an initial determination that the proposed action will have no significant effect on housing costs. Additionally, there has been no testimony or other evidence provided that would alter the Department’s initial determination.

#### **PUBLIC HEARING COMMENTS:**

**Public hearing was held on June 22, 2011, at 9:00 a.m.**

No one commented at the public hearing.

**SUMMARIES AND RESPONSES TO THE WRITTEN PUBLIC COMMENTS:**

No written comments were received.